

## REMARKS

This paper is submitted in response to the pending Office Action dated February 9, 2006. Because this Response is submitted with a certificate of mailing in compliance with 37 C.F.R. §1.8 on or before the shortened statutory period for reply set to expire on **March 9, 2006**, this Response is timely filed.

### I. STATUS OF THE CLAIMS

Claims 1 to 42 are pending in this application, with claims 17 to 36 being withdrawn and Claims 43 to 45 being canceled without prejudice. By this Response, Claims 37 and 42 have been amended to include and clarify subject matter inherently disclosed in the originally filed claims. Applicant submits that no new matter has been introduced by this Response. Thus, upon entrance of this Response, Claims 1 to 42 remain pending and at issue.

Applicant submits that no additional fees are due in connection with this Response, however, please charge **Deposit Account No. 02-1818** for any fees deemed owed.

### II. RESTRICTION REQUIREMENT

The pending Office Action established a restriction requirement that requires Applicant to elect one of the following inventions under 35 U.S.C. § 121:

- I. Claims 1-16, drawn to an apparatus, classified in class 406, subclass 38.
- II. Claims 37-42, drawn to a method, classified in class 406, subclass 197.

### III. TRAVERSAL OF RESTRICTION REQUIREMENT

Applicant respectfully traverses the pending restriction requirement and asserts that the Office Action fails to satisfy the burden of providing reasonable examples reciting material differences as required under MPEP §806.05(e). In particular, the Office Action alleges that both the process (method) can be practiced by another material different apparatus, and the apparatus can be used to practice another materially different process (method). The Office Action further alleges that the method must be practiced by an apparatus comprising a feeder and can be practiced by a blower conveying a liquid or a unit that has no base. In the alternative, the Office Action alleges that the apparatus can be of a weight too heavy for a

transportation device and can be used to be transported from one end of a device to another.

Applicant submits that the alleged distinctions provided (a) are not accompanied by reasonable examples and (b) have not been shown to be material, as necessary prior to requiring restriction. In particular, the Office Action simply lists some of the elements recited by independent Claims 1, 37 and 42 but provides no examples, reasonable or otherwise, that support the alleged distinctions between the claimed material blowing apparatus and the claimed methods of blowing or dispensing material. Moreover, Applicant submits that the Office Action does not set forth or establish material differences and instead simply alleges limitations that are not recited or required in the claims at issue. For example, none of the apparatus and methods recited by independent Claims 1, 37 and 42 makes any mention of, much less requires, blowing or dispensing a liquid of any kind. Similarly, the allegation that the apparatus can be too heavy for transportation is not supported by the recitation provided by Claim 1 which states that "the base, hose, hopper and blower are configured and arranged to be transported on another device."

Because the alleged distinctions are not supported by the clear language set forth in the claims at issue, and do not satisfy the burden of providing reasonable examples reciting material differences, Applicant submits that restriction is improper in this instance. Applicant respectfully requests that the pending restriction requirement be withdrawn and examination proceed with respect to pending claims 1 to 16 and 37 to 42.

#### IV. REQUIRED ELECTION

In order to present a complete response to the pending restriction requirement, Applicant elects, with traverse, the invention of Group I, corresponding to claims 1 to 16.

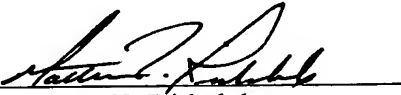
#### V. CONCLUSION

Applicants expressly reserve the right to argue later that the non-elected claims should be entered back into this case or to re-file the non-elected claims in subsequent divisional applications and argue the patentability of same. It is understood that the claims of any subsequent divisional application are presumptively patentable over each of the inventions and species discussed herein. Moreover,

Applicant will rely on this presumption during the prosecution of any subsequently filed divisional applications.

Respectfully submitted,

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